

FINAL MINUTES
KLAMATH FISHERY MANAGEMENT COUNCIL MEETING
March 5-7, 2006
Marriott Sea-Tac Hotel, Seattle, WA
Meeting #83

Sunday, March 5

3:00 pm Convene Meeting and Introduce Members.

Representative Seat

California Department of Fish and Game	Neil Manji
California In-River Sport Fishing Community	Virginia Bostwick
California Ocean Commercial Salmon Fishery	Dave Bitts
Hoopa Valley Tribe	Mike Orcutt
National Marine Fisheries Service	Eric Chavez
Non-Hoopa Indians Residing in Klamath Conservation Area	Dave Hillemeier
Oregon Commercial Salmon Fishing Industry	Keith Wilkinson
Oregon Department of Fish and Wildlife	Curt Melcher, Chair
Pacific Fishery Management Council	Jim Harp, Vice Chair
U.S. Department of the Interior	Phil Detrich
California Offshore Recreational Fishing Industry	Vacant

Agendum 1. Review and Approve Agenda

Curt Melcher, Chair, thanked everyone for attending. The California Off-Shore Recreational Fishing seat was not represented. Neil Manji and Dave Bitts were delayed in arriving. The group decided to move the California Fish and Game Commission Update to Monday, after Neil Manji arrived.

Motion by Keith Wilkinson to adopt the agenda.

Seconded by Jim Harp.

Motion carried.

Agendum 2. NOAA Updates

a. California Coastal Chinook

Eric Chavez reported on California Coastal Chinook (listed as threatened). The consultation standard for California Coastal Chinook is a pre-season target harvest rate of 16% on age-4 Klamath River fall Chinook. That harvest rate was exceeded in 2003 (23%) and 2004 (51%). There is no requirement that that this target must be met post-season if it is predicted by an unbiased model, but because these were large overages, NOAA reinitiated consultation in 2005 on the Biological Opinion for California Coastal Chinook. NOAA looked at the 2005 season to determine whether the high harvest rates were due to normal inter-annual variability, or whether the stocks were becoming more available for some reason, as evidenced by higher contact rates per unit effort. If the latter were true, NOAA would recommend that the 2006 harvest rate prediction be weighted more by the past three years' data than previous years.

After examining the results from the 2005 season, NOAA found some instances of unexpectedly high effort, and other instances of high catch per unit effort. There doesn't seem to be one clear cause, but something has changed, so this season NOAA will probably work with the STT to weight the recent

years' data more heavily in the model, and ask for a pre-season harvest rate lower than 16%. That could change things substantially.

Because there is no allowance under the Fishery Management Plan (FMP) for any fishing this year, due to the projected failure to meet the Klamath Fall Chinook Conservation Objective, the PFMC will probably ask NOAA to make an emergency rule for a fishing proposal that avoids impacts on Klamath salmon. At that time NOAA must also consider the impacts of the proposal on California Coastal Chinook. It must take into account both the Magnuson Act and the Endangered Species Act (ESA). There has already been a 6.7% harvest rate taken in the late fall ("credit card") fishery, so there isn't a lot of wiggle room.

In response to questions from members about the emergency rule, Eric Chavez said that NOAA is proceeding as if there will be no fishing this year between Cape Falcon and Point Sur. It will seriously consider an emergency rule request from the PFMC, including 50/50 Tribal/Non-tribal sharing, but it will be an uphill battle.

Dave Hillemeier asked that NOAA look at whether harvest rates were also underestimated in the late fall fishery, and if so, give more weight to recent years' data from that fishery as well. Mike Orcutt and Curt Melcher asked about efforts to get a better understanding of impacts on California Coastal Chinook. Eric Chavez said that NOAA is going forward with a genetic feasibility study once some funding issues are resolved. The feasibility study was planned for 2006, with the actual work to be completed by 2010. There is no coded wire tagging data from California Coastal Chinook river systems.

b. ESA guidance letter to the PFMC

NOAA's ESA guidance letter to the PFMC will be available Monday.

c. Fisheries disaster declaration

NOAA is preparing a fisheries disaster declaration in the event of a fisheries closure, concurrently with the PFMC's process. Virginia Bostwick asked if the relief is in the form of a loan or grant. Eric Chavez said Congress could decide on a variety of ways – there would be a requirement for 25% matching funds. There are some restrictions on how the money can be spent, as outlined in the Magnuson Act. Dave Hillemeier asked if the funds would apply to in-river fisheries. Eric Chavez said the disaster declaration itself is for commercial fishing, but the funds would be available for affected communities. He said he would check whether commercial in-river fisheries are included.

Agendum 3. Report from the Technical Advisory Team

a. Accounting of pre-season and post-season tribal and non-tribal catch

George Kautsky, chair of the Klamath River Technical Advisory Team (TAT), reviewed the handout, *Comparison of Pre/Post Allocation/Catch by Fishery, 1986-2005*, dated March 4, 2006. Melodie Palmer-Zwahlen and Michael Mohr prepared tables showing the pre-season and post-season estimates of: 1) the proportion of the non-tribal catch caught by the river sport fishery; 2) the proportion of the total (ocean + river) catch caught by the tribal fishery; and 3) the proportion of the ocean catch caught by the Klamath Management Zone (KMZ) fishery. The catches include the fall fishery of the previous calendar year, the spring fishery and the summer fishery (September 1 to August 31 each year). The post-season number is derived from the actual catch. The purpose of the exercise was to see how overages in the fall fishery played into the actual allocation realized by the tribal and non-tribal fisheries. In the tribal table (2), the pre-season management intention to give 50% of the total harvest is shown in the "Pre" column, and actual share that was realized is in the "post" column. Between 1994 and 2005, the tribes caught over 50% in three years, and caught less than 50% in the rest of the years.

Dave Hillemeier, Mike Orcutt, and Curt Melcher said that more information was needed to understand what happened in a given year, and requested the TAT: 1) add to the tribal table a column for the pre-season tribal allocation/pre-season tribal allocation + the actual non-tribal catch; 2) create a table for the ocean commercial fishery/total; 3) add to the tables the numbers of fish caught associated with each proportion; 4) indicate whether there were overages in quotas in any years, 5) create a table for pre ocean abundance for age-3 + age-4 / post ocean age-3 + age-4; 6) create a table for pre ocean abundance for age-4 / post ocean age-4; 7) create a table for pre river run size/post river run size. George Kautsky said Michael Mohr would be working on breaking the numbers down by the fall, spring and summer fisheries. He clarified that the fall fishery's impacts are not modeled in advance; their impacts are tabulated after-the-fact.

Agendum 4. Public Comment

Duncan McLean, Salmon Advisory Subpanel (SAS) member and California troller, asked if there was NOAA guidance on ESA constraints and conservation objectives for proposals to invoke the emergency rule. Eric Chavez replied that NOAA is leaving it up to the SAS and the PFMC process. NOAA must be convinced both that there is justification for de minimis fishing and that ESA constraints will be met.

Don Stevens, SAS Chair and Oregon troller, stated that he examined coded wire tag data provided by the Yurok tribe that showed that 75% of the tagged Klamath fall Chinook caught by the tribe in the estuary were caught after September 1. Those fish are supposed to be in the river by then, but they aren't; they are caught up to October 16. He asked the TAT to look at it. Had we not fished in September last year, we still wouldn't have made the conservation objective. Fishing has nothing to do with what is going on in the Klamath. The Bureau of Reclamation, U.S. Fish and Wildlife, Departments of Interior and Commerce, governors and fisheries departments in both states have totally failed, and NOAA Fisheries didn't step in to do anything about it either. Fishermen did not over-fish.

Don Stevens asked Eric Chavez if there is any science on California coastal Chinook, particularly on using Klamath Chinook as a surrogate? Eric Chavez replied that he would provide what little NOAA has. Regarding the disaster declaration, Don Stevens said Gulf fishermen affected by Katrina have still not received payments. It is hard to get charter boats included in a disaster declaration, and bait shops and gear stores aren't included. The Oregon Salmon Commission wants direct cash payouts based on the past 5 years of salmon receipts plus 26 weeks of unemployment. This is not going to be a one-year problem, either. In the last disaster declaration, the states squandered the money. Also, NOAA should not do this money business behind closed doors without the fishermen being involved. Eric Chavez said he would be directly involved in the disaster relief effort and is open to comments.

Dan Platt, Commercial Salmon Troller, said that fishing licenses are due soon. If we are not going to have a season, it would nice to know if we should buy the licenses. They get more expensive every year.

Jim Welter, SAS member and Oregon sport fisherman, asked whether we count the Karuk Tribe's catch, and said there are holes in the data picture.

Mike Sorenson, SAS member and Oregon Coast Sports Association, said he would like to see the charter industry included in the disaster relief fund. Hotels, fuel stations, markets, and many other businesses will be affected. Fishermen are not responsible for the lack of fish from the Klamath River.

4:30 pm Recess

6:00 pm Reconvene

Dave Bitts joined the meeting.

Agendum 3 (continued). Report from the Technical Advisory Team**b. Could abnormal survival rates affect the Klamath Ocean Harvest Model's (KOHM) ability to predict ocean harvest rates?**

George Kautsky asked Dave Bitts, who requested this assignment, to clarify his question. Dave Bitts said that each of the last two years the ocean harvest rate appeared to triple, in spite of the shape of the seasons and the overall effort being the same as in the past. Our new model is so transparent that modeling errors should be easily identified. If one component of the run was not surviving relative to the others, and that low survival was not taken into account in the coded wire tag expansion, could that lead to an error in the hindcasting of ocean harvest? In other words, are fish that should be there but aren't being calculated into the catch? Curt Melcher asked whether the model would give the same result hindcasting the 2005 ocean harvest rate using one hatchery release type versus another (fingerlings vs. yearlings). George Kautsky replied that the harvest rates that are projected and then estimated post season are a function of age-4 class strength at the time the fisheries occurred, and it is not affected by juvenile survival so much as adult recruitment. Michael Mohr agreed that it is hard to see how differences in juvenile survival could generate harvest rates as high as what we have seen recently.

Agendum 5. Overview of analyses of the Klamath fall Chinook Conservation Objective (Overfishing review 1994, Prager and Mohr 1999, STT technical review 2005)

Curt Melcher asked whether anyone had questions about the three documents provided by staff. He summarized the conclusion of the overfishing review as "fishing wasn't the cause of the decline" and "habitat was the primary cause". Phil Detrich read the five causal factors listed in the 1994 report: "1) poor survival conditions in the marine environment; 2) harvest management methodologies; 3) low mainstem and tributary flows exacerbated by drought; 4) hatchery operations with regard to size of juveniles and magnitude and timing of releases; 5) habitat conditions such as degradation of spawning and rearing areas by siltation, loss of riparian cover and woody debris removal". Curt Melcher said the other documents in this agendum were reviewed by the KFMC in October in Klamath Falls. Dave Bitts said that an overfishing review will probably happen again, and it means people will have to attend additional meetings, but it is not a process to be feared. Mike Orcutt asked whether there had been changes to the Magnuson Act regarding the rules for an overfishing review. Curt Melcher said the new act requires a rebuilding schedule. Dave Bitts asked whether the PFMC's definition of overfishing, shown on Page 1 of the overfishing review, had changed. Jim Harp said it was the same. Keith Wilkinson said that it would be appropriate to substitute "under-production" for "overfishing", because the fishermen don't deserve the blame. Dave Bitts agreed; he also has called it "under-escapement". Jim Harp pointed out that we will not have reached the overfishing review status until the fall run comes in and fails to meet the floor. We are currently in a conservation alert, which is more like a yellow flag, not a red flag.

Agendum 6. ACTION: Develop a range of options for the 2006 management season, for discussion with the Salmon Advisory Sub-panel and Presentation to the Pacific Fishery Management Council

Dave Hillemeier said the Yurok Tribe believes there should be no further fishing below the floor. However there has already been fishing in the fall fishery, and the tribe also strongly believes in 50/50 sharing. They plan to fish enough to maintain the 50/50 allocation share this year, and will decide how to set up a season after the April 2006, PFMC meeting. Mike Orcutt said the Hoopa Valley Tribal Council has not discussed it fully yet, but they feel similarly to the Yurok Tribe as far as legal considerations and conservation. Eric Chavez said that under the Magnuson Act and the FMP, NOAA does not advocate for anything that does not meet the conservation objective. If the range of options recommended by the KFMC included a no-fishing option and an option with some limited fishing under an emergency rule, NOAA would not stop the process at this point. Mike Orcutt said we are in a difficult position starting

out with a credit card fishery impact and being below the floor. But the TAT report shows how the tribes have not caught their allocation in most years, and these problems are rooted in the model. We must identify the problem and fix it. He also emphasized that most of the Hoopa Valley Tribe's efforts and resources are put to improving habitat in the Klamath-Trinity, and there are many other groups doing the same. He hopes to keep those alliances strong and not let finger-pointing happen.

Dave Bitts pointed out that the model shows that even with no fall fishery and no fishing this season, the run would not meet the spawner floor. He asked whether that situation itself required an emergency rule? Eric Chavez said no, not unless there was going to be some fishing.

Dave Hillemeier reviewed the KFMC's November recommendation to the PFMC, for de minimis fisheries with a harvest level not to exceed 10%, declining with the abundance of the stock. Including the 50/50 tribal/non-tribal sharing, we have already exceeded that. Dave Bitts said the purpose of de minimis fisheries, in his view, was to have some fisheries to allow the infrastructure (ice plants, gear stores, fuel docks, marinas) to survive and fishermen to keep their boats until the better times.

Curt Melcher asked whether under a zero fishing option the KFMC supported the tribal fishery harvesting up to the 50/50 allocation? He does support that. Mike Orcutt said that it's a legal issue beyond the purview of the KFMC. Dave Bitts acknowledged the legal right. Dave Hillemeier pointed out that the river fishery can legally proceed without an emergency rule from NOAA, and Eric Chavez agreed.

Phil Detrich said that any proposal to fish below the conservation objective is problematic because of the connotation it carries for the larger community that does not fully understand the complexity of the situation. Any entity that proposes to fish below the conservation objective needs to provide a substantial explanation for the general public and agency managers. The disease infection rate and the relationship between current population size and future production indicate that we will have problems in future years. If we go in that direction, we have a lot of work to do to explain why it is okay to fish below a conservation objective. Dave Bitts replied that if we have no fishing it will be hard to explain why a fishery was destroyed in spite of a record of stewardship that is as good as any in the country. In 1992, the PFMC decided to allow small fisheries, because the harm to the fish was less than the harm to the fishing communities. Later events supported that decision, but we may not be so fortunate over time. Curt Melcher said that in 1992, there were 12,000 spawners, but that year had the largest number of recruits per spawner in the data record. The data shows it is possible to rebuild the stock in one brood. Dave Hillemeier countered that there has not been a technical analysis of the genetic effects of such a low spawner escapement on sub-stocks, as the Prager and Mohr report noted. He doesn't see how such an analysis could be done before April.

Curt Melcher hoped that if NOAA decides not to consider an emergency rule, that they will say so soon, to avoid wasting the technical teams' time. Keith Wilkinson asked to carry this agenda over until Monday to allow members to review the expected guidance letter from NOAA.

Agendum 7. Public Comment

Bob Crouch, Klamath Management Zone Fisheries Coalition, said that we had four dry years leading to this decline in the fish numbers. Last spring, when the hatchery juveniles were released, we had good rain, and the rate of disease infection in those fish dropped way down. He assumes those fish made it out, and this year we are having lots of rain that will improve the disease conditions, so he expects the future years to get better. Because of this, and the economic impact on the whole coast, he thinks we should have minimal fishing. Virginia Bostwick cautioned that the rains also caused some flood damage to the habitat, so we can't assume the rains will improve things.

Jim Welter said that Bob Crouch was referring to Dr. Scott Foote's data showing the disease rate dropped from 97% a couple years ago to thirty-some percent after the rains last year. He said that he was on the overfishing review team back in 1992, and asked for the KFMC's endorsement to be on it again. He has always believed that wet years and good flows are correlated with production, but the overfishing review team refused to look into that. In 1992, we wiped out all the natural fish, and in the following years hatchery releases were close to 20 million a year. The hatchery fish diluted the genetic ability of the wild fish to resist disease, so he is amazed that we get any salmon back at all. We need to take better care of that natural component.

Don Stevens said that he doesn't dispute the Tribal fishery's right to half the harvest, but he questions whether September 1st is the correct date for the "birth date" cut-off between age classes. The Tribal estuary fishery is catching fish that were yearling hatchery releases from the Trinity River, all the way into October. The ocean fishery can live without those yearling releases. The fish released as yearlings don't behave the same way as the fish released as fingerlings. The fingerlings follow a migration route out into the ocean; the yearlings just stick around off the coast. He asked the TAT to look at the record back to 1979 to see when the yearling-released fish enter the river, when they were caught in the estuary fishery, and whether the September 1 cut-off is a good date. Regarding California Coastal Chinook, he questions the 16% harvest rate, because it was not based on data, and there hasn't been any research since the Biological Opinion. No one has any science-based idea of what is going on in those coastal systems, but the fishery is dying from being held to 16%, and now NOAA is considering lowering that, based on no information. He is frustrated with the NOAA Southwest Region.

Agendum 8. Arrange times for follow-up meetings during the remainder of the week.

The members agreed to meet Monday, March 6, 2006, at 8:00 am.

7:40 pm Recess

Monday, March 6

8:00 am Reconvene

Neil Manji joined the meeting.

Agendum 9. California Fish and Game Commission update

Neil Manji reported that he attended the California Fish and Game Commission and presented the pre-season reports on stock abundance for them. The Commission asked for clarification on what influence they now have in the process, and he explained that they must wait to see where NOAA and the KFMC stand before making regulations for the in-river sport and ocean recreational fisheries. The California Department of Fish and Game made a statement that at this time they do not support fishing below the floor, but they are reviewing the Prager/Mohr report to understand the effects of fishing below the floor. There will be public meetings in Crescent City and Weaverville, California, once the PFMC puts out their options. Neil Manji agreed to email staff the time and date of the meetings for distribution the KFMC. Dave Bitts asked whether the California Department of Fish and Game is going to support the FMP amendment for de minimis fisheries. Neil Manji responded that the Department does not have enough information at this time to allow for fishing below the floor this year. It does support the FMP amendment process for de minimis fisheries. NOAA Southwest Region director Rod McInnis was at the Commission meeting and made a presentation on the process, and referred to the guidance letter which is forthcoming. He assured the Commission that there would be a decision on fishing by early April.

Agendum 6 (continued). ACTION: Develop a range of options for the 2006 management season, for discussion with the Salmon Advisory Sub-panel and Presentation to the Pacific Fishery Management Council

Eric Chavez said that the NOAA guidance letter had not yet been released. Dave Bitts said it will be very difficult to shape season options by Friday (if there are any beside no-fishing), because we don't know what the harvestable surplus is. Keith Wilkinson offered a motion for consideration.

Motion by Keith Wilkinson for the following options for the 2006 management season:

Option 1 - The KFMC recommends the standard 50/50 tribal/non-tribal, 15% in-river, and 17% recreation, and 50/50 north/south sharing of ocean KMZ commercial fisheries.

Option 2 – No March or April fisheries. The Oregon fishing season will be in May, June, September, and October. For the Oregon perspective, offering the following tools: 1) consider vessel limits for Humbug to Cape Arago, 50 fish per week; Cape Arago to Florence, 75 fish per week; and north of Florence to Cape Falcon, 100 fish per week, 2) 27" size limit, and 3) additional weeks closed to meet management objectives to meet a de minimis fishery.

Option 3 – No option was offered, but he would consider a friendly amendment.

Dave Bitts seconded the motion.

Dave Bitts said California troll is looking at similar measures to what is described in the motion for Oregon. Mike Orcutt asked that the KFMC discuss the management objectives further before passing a motion. Virginia Bostwick said she would like more assurance from Dave Bitts that the post-season contact rate will not exceed the preseason contact rate. Phil Detrich asked whether the de minimis fisheries mentioned in this motion referred to the motion passed by the KFMC in October. Keith Wilkinson replied that it should be considered. Several members contributed to a discussion of what Option 3 would be— whether a “zero option” would include tribal fishing to meet 50/50 sharing. Eric Chavez clarified that the tribal allocation is not governed under the jurisdiction of NOAA or the PFMC, and NOAA Fisheries is in support of meeting the 50/50 allocation. He does not believe it would require an emergency rule, although NOAA will run this by their legal advisors again. Mike Orcutt asked to discuss the FMP amendment on de minimis fisheries before moving ahead on the options.

Motion by Mike Orcutt to table the motion, with Dave Hillemeier seconding.

Motion to table passed, with Keith Wilkinson abstaining.

Agendum 10. Fishery Management Plan Fishery Management Plan (FMP) amendment on de minimis fisheries

Curt Melcher said the PFMC has scheduled a scoping session for the FMP amendment on Friday. He said the KFMC made a statement on this item to the PFMC in November, 2005, and asked if the KFMC wanted to give further input. Dave Bitts, Mike Orcutt, Curt Melcher and Dave Hillemeier discussed the November statement in relation to the present situation. Curt Melcher summarized the consensus: that the KFMC is standing by its earlier statement and wants the TAT and appropriate management entities to be involved in the FMP amendment process. Dave Hillemeier asked whether the PFMC had decided who would be the lead entity, since the KFMC will officially cease to exist on September 30, 2006. Curt Melcher said it would be identified on Friday. Mike Orcutt asked whether George Kautsky could show graphs overlaying the KFMC's earlier de minimis fisheries statement with the 2006 projected abundance and 2005 fall fisheries. Curt Melcher called for a break while George Kautsky prepared his computer.

9:20 am Recess**9:30 am Reconvene****Agendum 10 (continued). Fishery Management Plan Fishery Management Plan (FMP) amendment on de minimis fisheries**

George Kautsky reviewed a graph that Michael Mohr had presented at the October KFMC meeting, showing the natural spawner reduction rate (SRR) under the current FMP and under a de minimis fishery scenario with a 10% SRR. He clarified that spawner reduction rate is different from the harvest rate. Ocean harvest rate involves the harvest of adult fish in the ocean, while SRR is the reduction of age-3 and age-4 natural spawners from all fisheries. He referred members to the TAT's report, Ocean Abundance Projections and Prospective Harvest Levels for Klamath River Fall Chinook 2006 Season, Appendix A. Appendix A is a KOHM run of a no-fishing scenario in 2006.

The KFMC's October recommendation for a de minimis fishery was that *"whenever the 'without-fishing' natural spawner abundance is predicted to be 39,000 or less, de minimis fisheries should be considered, with a maximum spawner reduction rate of 10%"*. Appendix A shows that this year the natural spawner abundance would be 32,526 without fishing (including no fall fishery), therefore we would be in the de minimis situation. Consulting the SRR graph, the allowable de minimis SRR for that number of natural spawners would be roughly 8-8.5%. It would take another KOHM model run to translate that to an ocean harvest rate, including the fall fishery. However we can see from Appendix A that the SRR for the fall fishery (where 6,136 Klamath fish were taken) equaled a 10% SRR. So we've already exceeded the KFMC's definition of a de minimis fishery by 2%.

Members questioned why the fall fishery's SRR was higher than its age-4 ocean harvest rate. They discussed how the September 1 "birth date" cut-off comes into play in these estimates. Curt Melcher asked the TAT to check whether in the SRR estimate the fall harvest was adjusted for mortality that would have occurred over the next 10 months; that would result in a lower SRR. Dave Bitts said that according to coded wire tag data, 1800 age-5 fish were harvested in the fall fishery, an unusually high 40-50% of the age-5 fish in the ocean at the time. That could account for the SRR being higher than the age-4 ocean harvest rate. Neil Manji asked to see what the SRR would be with no fishing except for the fall fishery plus a matching tribal share catch.

Agendum 6 (continued). ACTION: Develop a range of options for the 2006 management season, for discussion with the Salmon Advisory Sub-panel and Presentation to the Pacific Fishery Management Council

Curt Melcher had to leave, so Vice Chair Jim Harp acted as Chair. Keith Wilkinson asked the tribes whether, if the previous motion was removed from the table, they would consider abstaining from the vote rather than opposing it. According to the Robert's Rule of Order, the opposing party may reintroduce the motion and open it to amendments. Dave Hillemeier said that he would consider abstaining from the motion if there was a statement that addressed his concerns regarding Option 1, to clarify that we do not recommend that option. Mike Orcutt said that he would consider abstaining from the motion if there was a statement including his concern about properly analyzing the impacts of the 2006 fall fishery in Option 2. Neil Manji also shared that concern.

Dave Hillemeier and Mike Orcutt and George Kautsky wrote statements to include as amendments to the motion.

Keith Wilkinson stated that he would like to amend the motion with a 28" size limit rather than a 27".

**Motion by Dave Hillemeier to reintroduce the motion.
Keith Wilkinson seconded.**

Dave Hillemeier offered a friendly amendment to the motion to include additional statements as follows:

Per the Klamath River Technical Advisory Team's Report titled *Ocean Abundance Projections and Prospective Harvest Levels for Klamath River Fall Chinook, 2006 Season*, we have an indication that if 2005 fishing regulations were implemented during the coming season then only 18,700 adult natural Chinook would be projected to return to the basin. Such a low level of natural escapement is not acceptable to the KFMC, so we clearly would not recommend this level of fishing during 2006.

A statement to be drafted that would discuss the KFMC's concern about the effects of fall fisheries on the Conservation Objective and the structure of fisheries later in the year, and requesting summaries of harvest rates from fall fisheries from the previous three years.

Keith Wilkinson accepted those as a friendly amendment for the purpose of discussion.

Mike Orcutt asked to add a request that the PFMC ask the STT to explore a technically sound method for projecting impacts to Klamath fall Chinook during the development of the 2006 season. This analysis should include an estimate of the potential impacts to the 2007 ocean abundance.

Jim Harp called a recess for lunch while Darla Eastman typed the friendly amendments for display to the members.

12:15 pm Recess

1:15 pm Reconvene

Jim Harp continued to act as Chair.

Agendum 6 (continued). ACTION: Develop a range of options for the 2006 management season, for discussion with the Salmon Advisory Sub-panel and Presentation to the Pacific Fishery Management Council

Dave Bitts offered a friendly amendment to the motion:

To add to Option 2, "In California, the commercial fishing season will take place south of Point Arena and will be constrained by vessel limits and additional weeks closed to meet management objectives".

Keith Wilkinson accepted the friendly amendment, and made an amendment to change the 27" size limit in Option 2 to 28".

The members agreed upon language for the second portion of Dave Hillemeier's friendly amendment, with suggestions from Mike Orcutt. Dave Bitts suggested rewording the beginning of the motion. Darla Eastman edited and projected the language on an overhead screen.

The final motion read as follows:

Motion for the following options for the 2006 management season:

For Options 1 and 2, the KFMC recommends the standard 50/50 tribal/non-tribal, 15% in-river, and 17% recreation, and 50/50 north south sharing of ocean KMZ commercial fisheries.

Option 1 – 2005 regulations.

Option 2 – No March or April fishery. The Oregon fishing season will be in May, June, September, and October. For the Oregon perspective, offering tools to accommodate: 1) consider vessel limits in Humbug to Cape Arago, 50 fish per week; Cape Arago to Florence, 75 fish per week; and north of Florence to Cape Falcon, 100 fish per week, 2) 28" size limit, and 3) additional weeks closed to meet management objectives to meet a de minimis fisheries. In California, the commercial fishing season will take place south of Point Arena and will be constrained by vessel limits and additional weeks closed to meet management objectives.

Option 3 – No fishing, with the exception of 50/50 tribal share.

Per the Klamath River Technical Advisory Team's Report titled *Ocean Abundance Projections and Prospective Harvest Levels for Klamath River Fall Chinook, 2006 Season*, we have an indication that if 2005 fishing regulations were implemented during the coming season then only 18,700 adult natural Chinook would be projected to return to the basin. Such a low level of natural escapement is not acceptable to the KFMC, so we clearly would not recommend this level of fishing during 2006.

In light of the KFMC's concern regarding fall fishery impacts and their subsequent impact on conservation objectives and fisheries during the following year, we request that post-season fall ocean harvest rates be summarized for 2003-2005, and that PFMC explore a technically sound method for projecting impacts to Klamath fall Chinook during development of the 2006 season. This analysis should include an estimate of the potential impacts to the 2007 ocean abundance.

Keith Wilkinson accepted the changes to the motion.

The motion passed with Mike Orcutt abstaining.

Jim Harp suggested the KFMC reconvene at 8:00 Monday evening.

2:00 pm Recess

8:00 pm Reconvene

Curt Melcher rejoined the meeting.

Agendum 11. Letter to PFMC (cc to Federal Energy Regulatory Commission) on constant fractional marking at Iron Gate Hatchery

Neil Manji provided a draft letter as a handout to the KFMC. The members agreed to review the letter and make comments when the KFMC reconvenes.

Agendum 12. Letter to the PFMC (cc to Secretary of Interior) regarding the accomplishments of the KFMC and fisheries monitoring not funded in 2006

Curt Melcher and Phil Detrich have started drafting this letter, and will attach a list of the unfunded monitoring projects. The letter will also try to capture the highlights of the KFMC's work over 20 years, and bring to the attention of the PFMC the Klamath Act's activities and funding beyond the KFMC. Eric Chavez asked to have the list of unfunded monitoring as soon as possible. Keith Wilkinson said that it

was a great struggle within the Klamath Act process to get the Task Force to devote some funding to monitoring, and he hoped that if the Act was reauthorized, that there would be a clear set-aside for monitoring. Curt Melcher and Phil Detrich agreed to get a draft letter to the KFMC members one week before the April meeting, for finalization on Sunday, April 2.

Agendum 8 (Continued). Arrange times for follow-up meetings during the remainder of the week.

The members discussed the schedule for the remainder of the week. Curt Melcher said there might not be any need for further meetings after Tuesday. A meeting was set for Tuesday at 8:00 am, to finalize the letter to the PFMC on constant fractional marking at Iron Gate Hatchery. Curt Melcher and Jim Harp will be at the PFMC meeting, so Phil Detrich, the Designated Federal Officer, will serve as Chair.

Agendum 13. Contingency planning for the absence of the Klamath Act funding

Mike Orcutt reminded the members that in February Cindy Williams said there may be funds available for monitoring through the Bureau of Reclamation (BOR). He would like to see a letter from the KFMC to the BOR (cc'd to agency Regional Directors Kirk Rogers and Steve Thompson) explaining the base-level funding needs and asking what is available for monitoring for fisheries management, and other projects such as disease studies. Phil Detrich said we should develop an organized program of monitoring actions that are necessary on a regular basis to carry out fisheries management, rather than seeking funding piecemeal. Neil Manji added that such a program should include the Trinity as well as the Klamath. Phil Detrich asked that the TAT prepare a list of ongoing monitoring that must be done for fisheries management in the whole basin. George Kautsky said that the Bogus Creek spawning study was the only monitoring on the Klamath side funded for 2006.

Curt Melcher asked the members to consider the other functions of the KFMC. Dave Bitts said that if funding were made available, the PFMC could form an ad hoc committee in lieu of the KFMC. Neil Manji said that the agencies and tribes now on the KFMC would have to pay for the meeting rooms and administrative costs of an ad hoc committee, and that it would be difficult for the non-governmental representatives to raise the travel money to attend the meetings; (they currently have their travel covered by the Klamath Act). Mike Orcutt suggested looking at the Trinity for a model of an alternative. Curt Melcher left open the question of having a final meeting in August to plan for a group to continue addressing Klamath fishery issues, if it appears the Klamath Act will not be reauthorized.

Agendum 14. Public Comment

No members of the public spoke.

9:00 Recess

Tuesday, March 7, 2006

8:00 am Reconvene

George Kautsky sat in for Mike Orcutt. Desma Williams sat in for Dave Hillemeier. Phil Detrich served as Chair

Cont. Agendum 11 (continued). Letter to PFMC (cc to Federal Energy Regulatory Commission) on constant fractional marking at Iron Gate Hatchery (Manji)

The KFMC reviewed the letter from Neil Manji. The letter was projected on the screen and the members made edits. George Kautsky said the letter needs a statement of why the CWT analyses are important for a variety of purposes. Dave Bitts said that we need to say what is in it for FERC and PacifiCorp, and how it assists with their ability to get re-licensed. Phil Detrich said that Iron Gate Hatchery was built as

mitigation for the construction of Iron Gate Dam, and that mitigation is considered incomplete by resource agencies. The role of Iron Gate Hatchery would change if a long-term license were issued that required fish passage over the dams. We should consider the letter's recommendations within a framework of 10 years, assuming there will be some annual licenses, plus time required to implement any fish passage prescriptions. After that, we don't know what the situation could be. Neil Manji said he doesn't want to give a laundry list to the PFMC. We just want to say that it is important to increase the marking rate, only as long as the fish hatchery is operating under the existing license. FERC has received letters supporting constant fractional marking, including the costs; we don't need to get into that. We just need to encourage the PFMC to say it needs to be done. Desma Williams suggested removing the licensing information in the last paragraph. Dave Bitts agreed. Neil Manji and Phil Detrich said that the PFMC needs to understand the interim licensing issue. The members came to a consensus and agreed to finalize the following letter:

**Don Hansen, Chairman
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384**

Subject: Marking Rates at Iron Gate Hatchery

Dear Mr. Hansen:

The Klamath Fishery Management Council (KFMC) wishes to draw your attention to an extremely important issue in the management of Klamath River fall Chinook salmon: the low marking rates of Klamath River fall Chinook at Iron Gate Hatchery. The KFMC requests your assistance in informing the Federal Energy Regulatory Commission (FERC) on the importance of constant fractional marking of Klamath River fall Chinook at Iron Gate Hatchery, which is funded by PacifiCorp as a condition of its license to operate its hydropower facilities in the Klamath River of Oregon and California.

PacifiCorp is in the process of renewing its FERC license (FERC 2082). The existing license expired on March 6, 2006. It may be several years before a new long term license is issued. In the meantime, it is expected that PacifiCorp will be operating under a series of annual licenses based upon the terms of the previous license. It is not uncommon for FERC to issue multiple annual licenses, occasionally taking over a decade to implement new license conditions.

Contemporary practices at large-scale salmon production hatcheries, such as Iron Gate Hatchery, require proper accounting for contribution to fisheries, facility efficiency, review of release strategies, and minimizing effects on naturally produced fish.

As you know, the KFMC and its Technical Advisory Team (Team) are responsible for assessing the annual spawning abundance and ocean and river harvests of Klamath River fall Chinook. Among the most critical elements of the assessment is the recovery of coded wire tags (CWT) from fish marked and released from Iron Gate and Trinity River Hatcheries. The CWT recoveries provide information on the distribution, timing, and relative magnitude of catches of Klamath River fall Chinook off Washington, Oregon, and California, in the recreational and tribal fisheries in the Klamath Basin, as well as the magnitude of the returns to hatcheries and natural spawning areas.

Stock analysis using CWT information is critical in managing Pacific salmon populations. The Pacific Fishery Management Council and National Marine Fisheries Service use this information in developing annual salmon fishing regulations for the west coast. Their ability to manage fisheries is strongly influenced by the marking rates of fish released from Iron Gate and Trinity River

Hatcheries. Since 2000, the marking rates of Trinity River Hatchery fingerlings have been a constant fractional 25% of production. In contrast, marking rates of Chinook fingerlings at Iron Gate Hatchery have been about 4% of the production. Due to the low marking rates, Iron Gate CWT fish are not frequently recovered. When they are recovered, a very high expansion factor is assigned to them, which reduces the accuracy of harvest rate predictions for a given time and area.

Under the interim annual license, FERC has the option to require PacifiCorp to increase the marking rate now. During the traditional re-licensing process, many state and federal agencies, tribes and non-governmental organizations have requested FERC to direct PacifiCorp to increase the marking rate of Iron Gate Hatchery fall Chinook. To date, FERC has not responded to these requests.

The KFMC respectfully requests that the Pacific Fisheries Management Council inform FERC of the need to increase the marking rate of Klamath River fall Chinook at Iron Gate Hatchery. The improved marking rate should be applied for the entire duration of the interim licenses. When a new license is issued, the appropriate marking rates should be included in any hatchery management regime.

Thank you for your consideration of this issue. If you have questions, please contact Phil Detrich, Yreka Fish and Wildlife Office, at (530) 842-5763.

Sincerely,

Curt Melcher, Chairman
Klamath Fishery Management Council

Agendum 15. Assignments to the TAT, Staff and Members

Staff will finalize the letter regarding marking rates for Iron Gate Hatchery, get Curt Melcher's signature, and distribute accordingly.

The TAT will continue the tribal/non-tribal sharing assignment.

Agendum 16. Agenda items for the April 2-7, 2006, meeting in Sacramento, CA

The next meeting is on Sunday, April 2, 3:00 pm, and Keith Wilkinson pointed out that there will be a time change to daylight savings time that day. No items were suggested for the agenda at this time.

Motion by Keith Wilkinson adjourn the meeting, with Neil Manji seconding.

Motion passed.

9:30 am Adjourn

FINAL AGENDA
KLAMATH FISHERY MANAGEMENT COUNCIL MEETING
March 5-7, 2006
Seattle Marriot Hotel, Sea-Tac
Seattle, Washington
Meeting #83

Sunday, March 5

3:00 pm Convene Klamath Council meeting and introduce members

- 1) Review and approve agenda

2006 Management Season

- 2) NOAA Updates (Chavez)
 - a) California Coastal Chinook
 - b) ESA guidance letter to PFMC
 - c) Fisheries disaster declaration
- 3) Reports from the Technical Advisory Team (TAT)
 - a) Accounting of pre-season and post-season tribal and non-tribal catch, 1993-2005
- 4) Public Comment

4:30 pm Recess

6:00 pm Reconvene

- 3) (continued) Reports from the TAT
 - b) Could abnormal survival rates affect the KOHM's ability to predict ocean harvest rates?
- 5) Overview of analyses of the Klamath fall Chinook Conservation Objective (overfishing review 1994, Prager and Mohr 1999, STT technical review 2005)
- 6) **Action:** Develop a range of options for the 2006 management season, for discussion with the Salmon Advisory Subpanel and presentation to the Pacific Fishery Management Council
- 7) Public Comment
- 8) Arrange times for follow-up meetings during the remainder of the week

7:40 pm Recess

Monday, March 6

8:00 am Reconvene

- 9) California Fish and Game Commission update (Manji)
- 10) Fishery Management Plan (FMP) amendment on de minimis fisheries

6) (continued) **Action:** Develop a range of options for the 2006 management season, for discussion with the Salmon Advisory Subpanel and presentation to the Pacific Fishery Management Council

2:00 pm Recess

8:00 pm Reconvene

11) Letter to PFMC (cc to Federal Energy Regulatory Commission) on constant fractional marking at Iron Gate Hatchery (Manji)

12) Letter to the PFMC (cc to Secretary of Interior) regarding the accomplishments of the KFMC and fisheries monitoring not funded in 2006 (Melcher and Detrich)

8) (continued) Arrange times for follow-up meetings during the remainder of the week

13) Contingency planning for the absence of the Klamath Act funding

14) Public Comment

9:00 pm Recess

Tuesday, March 7

8:00 am Reconvene

11) (continued) Letter to PFMC (cc to FERC) on constant fractional marking at Iron Gate Hatchery

15) Assignments to the Technical Advisory Team, staff, and members

16) Agenda items for the April 2-7, 2006 meeting in Sacramento, CA

9:15 am Adjourn

MOTIONS AND ASSIGNMENTS
KLAMATH FISHERY MANAGEMENT COUNCIL MEETING
March 5-7, 2006
Seattle Marriot Hotel, Sea-Tac
Seattle, Washington
Meeting #83

Motions:

Agendum 1

Motion by Keith Wilkinson to adopt the agenda.
Seconded by Jim Harp.
Motion carried.

Agendum 7

Motion by Keith Wilkinson, seconded by Dave Bitts, for the following options for the 2006 management season, with friendly amendments by Dave Hillemeier, Mike Orcutt, Dave Bitts:

For Options 1 and 2, the KFMC recommends the standard 50/50 tribal/non-tribal, 15% in-river, and 17% recreation, and 50/50 north south sharing of ocean KMZ commercial fisheries.

Option 1 – 2005 regulations.

Option 2 – No March or April fishery. The Oregon fishing season will be in May, June, September, and October. For the Oregon perspective, offering tools to accommodate: 1) consider vessel limits in Humbug to Cape Arago, 50 fish per week; Cape Arago to Florence, 75 fish per week; and north of Florence to Cape Falcon, 100 fish per week, 2) 28" size limit, and 3) additional weeks closed to meet management objectives to meet a de minimis fisheries. In California, the commercial fishing season will take place south of Point Arena and will be constrained by vessel limits and additional weeks closed to meet management objectives.

Option 3 – No fishing, with the exception of 50/50 tribal share.

Per the Klamath River Technical Advisory Team's Report titled *Ocean Abundance Projections and Prospective Harvest Levels for Klamath River Fall Chinook, 2006 Season*, we have an indication that if 2005 fishing regulations were implemented during the coming season then only 18,700 adult natural Chinook would be projected to return to the basin. Such a low level of natural escapement is not acceptable to the KFMC, so we clearly would not recommend this level of fishing during 2006.

In light of the KFMC's concern regarding fall fishery impacts and their subsequent impact on conservation objectives and fisheries during the following year, we request that post-season fall ocean harvest rates be summarized for 2003-2005, and that PFMC explore a technically sound method for projecting impacts to Klamath fall Chinook during development of the 2006 season. This analysis should include an estimate of the potential impacts to the 2007 ocean abundance.

Motion carried with Mike Orcutt abstaining.

Assignments:

Assignment to Staff:

Agendum 11: Finalize the letter regarding marking rates for Iron Gate Hatchery for Curt Melcher's signature and distribute accordingly.

Assignments to the TAT:

Agendum 3a: Continue the tribal/non-tribal sharing assignment as follows: 1) add to the tribal table a column for the pre-season tribal allocation/pre-season tribal allocation + the actual non-tribal catch; 2) create a table for the ocean commercial fishery/total; 3) add to the tables the numbers of fish caught associated with each proportion; 4) indicate whether there were overages in quotas in any years, 5) create a table for pre ocean abundance for age-3 + age-4 / post ocean age-3 + age-4; 6) create a table for pre ocean abundance for age-4 / post ocean age-4; 7) create a table for pre river run size/post river run size.

Agendum 13: Prepare a list of ongoing monitoring that must be done for fisheries management in the whole basin.

Agendum 10: During George Kautsky's presentation on de minimis fisheries and this year's situation, Curt Melcher asked the TAT to check whether in the SRR estimate the fall harvest is adjusted for mortality that would have occurred over the next 10 months. Neil Manji asked to see what the SRR would be with no fishing except for the fall fishery plus a matching tribal share catch.

Assignment to Members:

Agendum 12: Phil Detrich and Curt Melcher will distribute before the next meeting the draft letter to the PFMC regarding the accomplishments of the KFMC and fisheries monitoring not funded by the Klamath Act in 2006.

LIST OF HANDOUTS
Klamath Fishery Management Council
March 5-10, 2006
Seattle Marriot Hotel, Sea-Tac
Seattle, Washington
Meeting #83

- | | |
|---------------|---|
| Agendum 4b | Klamath River Technical Advisory Team Comparison of Pre/Post Allocation/Catch by Fishery, 1986-2005, dated March 4, 2006. |
| Agendum 5 | Supplemental STT Report entitled, “Salmon Technical Team Report on the Technical Basis for the Klamath River Fall Chinook Conservation Objective”, dated June 2005. |
| Agendum 5 | Klamath River Fall Chinook Review Team Report entitled, “An Assessment of the Status of the Klamath River Fall Chinook Stock as Required Under the Salmon Fishery Management Plan”, dated December 1994. |
| Agendum 5 | Draft Report to the Klamath Fishery Management Council entitled, “Population Dynamics of Klamath River Fall Chinook Salmon: Stock-Recruitment Model and Simulation of Yield under Management” from the Klamath River Technical Advisory Team, dated January 19, 1999. |
| Agendum 7 | Supplemental Klamath Fishery Management Council Report regarding Motion Adopted regarding Recommendations to the Pacific Fishery Management Council for Modeling Options for the 2006 Fishing Season, dated March 6, 2006. |
| Agendum 17 | Draft KFMC letter by Neil Manji from the KFMC to the PFMC regarding the Importance of the Management of the Klamath River Fall Chinook Salmon, dated March 6, 2006. |
| Informational | Klamath River Fall Chinook Age-Specific Escapement, River Harvest, and Run Size Estimates, 2005 Run from the Klamath River Technical Advisory Team, dated February 15, 2006. |
| Informational | Ocean Abundance Projections and Prospective Harvest Levels for Klamath River Fall Chinook, 2006 Season from the Klamath River Technical Advisory Team, dated February 15, 2006. |
| Informational | NMFS Report to the Pacific Fishery Management Council entitled, “National Marine Fisheries Service Report on Use of Emergency Rules, dated November 2005. |

Attachment 4

LIST OF ATTENDEES
KLAMATH FISHERY MANAGEMENT COUNCIL MEETING
March 5-7, 2006
Seattle Marriot Hotel, Sea-Tac
Seattle, Washington
Meeting #83

The following individuals attended the Klamath Fishery Management Council meetings in Seattle, WA.

<u>Name</u>	<u>Representing</u>
Bob Crouch	Klamath Management Zone Fisheries Coalition
Jim Welter	Salmon Advisory Sub-panel, Oregon Sport Fisher
Desma Williams	TAT, Yurok Tribal Fisheries Program
Don Stevens	Salmon Advisory Sub-panel, Oregon Troller
Gerald Reinholdt	Salmon Advisory Sub-panel, Processor
George Kautsky	TAT, Hoopa Valley Tribe
Duncan MacLean	Salmon Advisory Sub-panel, California Troller